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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,076	10/08/2000	Jonathan Cherneff	0544MH-36339	2872
7590	10/22/2003		EXAMINER	
CHRISTOPHER W. KENNERLY, ESQ.			STIMPAK, JOHNNA	
BAKER BOTTs L.L.P			ART UNIT	PAPER NUMBER
2001 ROSS AVENUE			3623	
SUITE 600				
DALLAS, TX 75201-2980			DATE MAILED: 10/22/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

8K

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/684,076	CHERNEFF ET AL.	
	Examiner	Art Unit	
	Johnna R Stimpak	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 08 October 2000.

2a) This action is FINAL.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-4 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-4 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 08 October 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. The following is a first Office Action upon examination of application number 09/684076. Claims 1-4 are pending and have been examined on the merits discussed below.

### ***Specification***

2. The specification is objected to because of the following informalities: Applicant has failed to include the serial numbers of the co-pending US applications on page 2 of the specification. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mahapatro, US 6,571,215 in view of Miller, US 5,408,663.**

As per **claim 1**, Mahapatro teaches receiving as input a list of a plurality of products to be developed, and a list of required completion dates for the development of each product (column 5, lines 11-24 – receives input the list of tasks that must be performed to complete the project and column 6, lines 33-44 – a constraint identifies when the project must be completed); receiving as input one project definition for each product, the project definitions each defining a plurality of tasks required to complete the project, and resources required to complete each task,

at least one of the tasks for at least one project requiring a material to be provided by an outside party (column 5, lines 11-24 – tasks for each project and resources to be assigned are defined; column 2, lines 1-8 – as part of building a house, tasks include laying the foundation, framing the house and shingling the roof – all inherently provided by outside parties); receiving as input a list of available resources, each resource having a capacity as a function of time (column 5, lines 11-44 – for each resource it is the amount of work that can be done in a certain time is determined); receiving as input a list of materials available from outside parties, and a schedule of availability of such materials (column 2, lines 1-8 – included are tasks that must be performed in a specific order and by specific parties – brick for the foundation, wood for the framing of the house, etc) but does not explicitly teach generating a schedule allocating all resources such that each resource is allocated at a level less than or equal to its capacity. Mahapatro does teach taking into consideration a resource's expertise level for scheduling purposes (column 12, lines 1-10) but does not expand on this idea. Miller teaches each task having a skill level and each resource having particular skills that are used for allocating resources to tasks (column 1, lines 46-50 and column 2, lines 46-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to schedule resources to specific tasks based on skill level to make the best use of available resources and to utilize the specific skills of each resource to produce the best assignments.

As per **claim 2**, Mahapatro teaches taking into consideration a resource's expertise level for scheduling purposes, (column 12, lines 1-10) but does not expand on this idea. Mahapatro does not explicitly teach each available resource is assigned an ability level, and wherein each task requiring a resource specifies a minimum ability level to be used for that task, and wherein

the generated schedule allocates to all tasks, resources that have an ability level at least as high as the specified minimum ability level. Miller teaches each task having a skill level and each resource having particular skills that are used for allocating resources to tasks (column 1, lines 46-50 and column 2, lines 46-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to schedule resources to specific tasks based on skill level to make the best use of available resources and to utilize the specific skills of each resource to produce the best assignments.

**Claim 3** is the system for performing the method of claim 1. Since Mahapatro is directed to a computerized scheduling system, the same rejection as applied to claim 1 above is also applied to claim 3.

**Claim 4** is the system for performing the method of claim 2. Since Mahapatro is directed to a computerized scheduling system, the same rejection as applied to claim 2 above is also applied to claim 4.

### *Conclusion*

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lesaint et al, US 6,578,005 – directed to resource allocation for task scheduling.

Dietrich et al, US 5,216,593 – directed to computerized production planning and resource allocation.

Hughes et al, US 5,893,074 – directed to scheduling projects between suppliers and receivers.

Fox, US 5,890,134 – directed to schedule optimization for a multiple task schedule.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Johnna Stimpak** whose telephone number is **703-305-4566**. The examiner can normally be reached Monday through Friday from 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Tariq Hafiz**, can be reached on **703-305-9643**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Or faxed to:

703-305-7687

[Official communications; including  
After Final communications labeled  
“Box AF”]

703-746-3956

[Informal/Draft communications, labeled  
“PROPOSED” or “DRAFT”]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> Floor.

JS  
October 20, 2003

*Susanna Diaz*  
*Susanna Diaz*  
*Primary Examiner*  
*A.U. 3623*